

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

REUBEN McDOWELL,

Plaintiff,

-v.-

Civil Action No.
9:06-cv-1060 (GLS/DRH)

MICHAEL GATES; LT. VANWINKLE;
C. HALL; and M. HARPP,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

REUBEN McDOWELL
Plaintiff, *Pro Se*
6309 Regency Park North Apts.
Queensbury, New York 12804

FOR THE DEFENDANTS:

MURPHY, BURNS, BARBER &
MURPHY, LLP
226 Great Oaks Boulevard
Albany, New York 12203

THOMAS K. MURPHY, ESQ.

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed August 27, 2009. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed August 27, 2009 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the defendants' motion for summary judgment (Docket No. 64) is GRANTED as to McDowell's claims for insufficient notice, false misbehavior report, and the Equal Protection Clause claim for failing to charge Martin with a disciplinary violation and DENIED in all other respects, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: September 21, 2009
Albany, New York

Gary L. Sharpe
Gary L. Sharpe
U.S. District Judge